

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN ADAMS,

Plaintiff,

v.

AUTO RAIL LOGISTICS, INC., and
AUTO WAREHOUSING CO., and
JOHN CORRIGAN,

Defendant.

Case No: 09-12152

Honorable Victoria A. Roberts

ORDER

On January 19, 2011, the Court held a hearing on the various motions in limine filed by the parties (Docs. 27, 28, 29), and Defendants' motion to amend the Joint Final Pretrial Order (Doc. 36). Attending were Brian J. Nagy representing the Plaintiff, and Thomas R. Wurst and Sarah K. Willey representing the Defendants. For the reasons stated on the record, the Court makes the following rulings:

1. Plaintiff's motion in limine to exclude evidence regarding bank records showing that Plaintiff purchased gasoline on December 26, 2007 in Cincinnati, Ohio, is DENIED. The parties stipulated to the admission of the records (provided they are corrected) to show that Plaintiff purchased gas on December 25, 2007. Bank records not included in the Joint Final Pretrial Order are excluded.
2. Plaintiff's motion in limine to preclude the Defendant from "nitpicking" the factual allegations in Plaintiff's Complaint, or in the alternative, to allow

Plaintiff to amend his Complaint, is DENIED. The parties may use the pleadings to impeach witness testimony.

3. Plaintiff's motion in limine, to limit Defendants' honest belief defense to the evidence known to Defendants at the time Plaintiff was discharged is DENIED as moot; the honest belief defense is inapplicable to interference/entitlement claims under the FMLA.
4. Plaintiff's motion in limine to preclude Defendants from arguing Plaintiff's medical certification is incomplete or inadequate, is DENIED.
5. Plaintiff's motion in limine to preclude a same decision defense, is DENIED.
6. Plaintiff's motion in limine to exclude any evidence of Defendants' oral requests for justification for Plaintiff's absences, is DENIED.
7. Defendants' motion in limine to exclude the Department of Labor's regulations from admission at trial, is GRANTED. The relevant regulations will be admitted at trial only to the extent they are represented by the jury instructions.
8. Defendants' motion to amend the Joint Final Pretrial Order, is DENIED. Defendants will not be permitted to (1) add exhibits of bank records, (2) add a witness; or (3) add exhibits of records identifying the owners of phone numbers which appear on Plaintiff's phone records. Defendants will not be permitted to introduce any evidence of the identity of persons Plaintiff called; such evidence is more prejudicial than probative.

IT IS ORDERED.

s/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: January 24, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on January 24, 2011.

s/Linda Vertriest
Deputy Clerk